

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Mark Lewis,)	
)	
Plaintiff,)	C.A. No. 2:10-cv-00861-JMC
)	
v.)	OPINION & ORDER
)	
Beaufort Court, Beaufort County Sheriff's)	
Office and J. Hoyt, Faith Lingard, South)	
Carolina Department of Motor Vehicles,)	
and Latonia Washington,)	
)	
Defendants.)	
_____)	

This matter is now before the court upon the Report and Recommendation of the Magistrate Judge, made in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 of the District of South Carolina. In his Report and Recommendation, the Magistrate Judge reviewed the following motions: (1) Defendant Beaufort County's Motion to Dismiss [Doc. # 3]; (2) Defendant Beaufort County Sheriff's Office's Motion to Dismiss [Doc. # 6]; (3) Defendant Hoyt's Motion to Dismiss [Doc. # 8]; (4) Defendant South Carolina Department of Motor Vehicle's Motion to Dimiss [Doc. # 10]; (5) Defendants Faith Linguard and Latonia Washington's Motion to Dismiss and Amended Motion to Dismiss [Docs. # 15, 17]; (6) Plaintiff's Motion to Amend Complaint [Doc. # 32]; and (7) Plaintiff's Motion to Remand [Doc. # 34]. The Magistrate Judge recommends granting the respective Defendants' motions to dismiss, denying Plaintiff's motions, and dismissing the case in its entirety. The Report and Recommendation sets forth in detail the relevant facts and the court incorporates such without a recitation.

STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

DISCUSSION

Mark Lewis (“Plaintiff”) is seeking relief for alleged violations of his constitutional rights brought pursuant to 42 U.S.C. § 1983 and violations of state law.

After receiving the Magistrate Judge’s Report and Recommendation on the pending motions, Plaintiff timely filed objections. Plaintiff agrees with the Magistrate Judge’s recommendation to dismiss his cause of action against all Defendants under 42 U.S.C. § 1983. However, Plaintiff objects to the recommendation to disallow amendment of his complaint to assert further state law causes of action against Defendants and the recommendation to deny remand after amendment.

A district court has discretion to deny a motion to amend a complaint, so long as it does not outright refuse “to grant the leave without any justifying reason.” *Foman v. Davis*, 371 U.S. 178, 182, 83 S.Ct. 227, 9 L.Ed.2d 222 (1962). A motion to amend is justifiably denied when the amendment would be prejudicial to the opposing party, the moving party has acted in bad faith, or the amendment would be futile. *See Laber v. Harvey*, 438 F.3d 404, 426 (4th Cir.2006) (en banc). In this case, Plaintiff requested amendment and remand after certain Defendants had already moved to dismiss his constitutional claim and after the Magistrate Judge first recommended dismissal based

on failure to prosecute. Allowing Plaintiff to seek amendment of his complaint after the Defendants have filed and obtained favorable results on their motions to dismiss would be prejudicial.

Having found that these Defendants are entitled to dismissal regarding Plaintiff's constitutional claim - and only federal claim, the court declines to exercise supplemental jurisdiction over any claims for relief asserted against Defendants pursuant to state law. *See* 28 U.S.C. § 1367(c).

It is therefore **ORDERED** that Defendants' Motions to Dismiss [Docs. # 3, 6, 8, 10, 15, and 17] are **GRANTED**, and that Plaintiff's complaint for relief is dismissed in its entirety. It is further **ORDERED** that all other pending motions [Docs. # 32, and 34] are denied as moot.

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

January 27, 2011
Greenville, South Carolina